

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CHRISTOPHER LEE KNAPP,

Plaintiff,

-against-

3:18-cv-1253 (LEK/DEP)

SEAN M. FOX,

Defendant.

DECISION AND ORDER

I. INTRODUCTION

Pro se plaintiff Christopher Lee Knapp, who is incarcerated at Broome County Correctional Facility (“Broome C.F.”), filed this case on October 24, 2018. Dkt. No. 1 (“Complaint”). Before the Court is his second application to proceed in forma pauperis (“IFP”). Dkt. No. 7 (“Second IFP Application”).

II. LEGAL STANDARD

The statute governing a prisoner’s request to proceed IFP, 28 U.S.C. § 1915, provides that “a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint . . . obtained from the appropriate official of each prison at which the prisoner is or was confined” must be submitted with the request. § 1915(a)(2). In this district, prisoner may satisfy these requirements by submitting: (1) a signed and completed IFP application; and (2) the inmate authorization form issued by the Clerk’s office, which authorizes the prison to send the Court certified copies of the prisoner’s inmate account statements and to disburse the required funds to the Court in

installments.¹ L.R. 5.4(b). Once the prison receives the prisoner's authorization to do so, it must send to the Court the certified copy of the prisoner's trust fund account statement for the prior six months and make the required payments from the account. Leonard v. Lacy, 88 F.3d 181, 187 (2d Cir. 1996).

III. DISCUSSION

At the outset of this action, Plaintiff completed his portion of a first IFP application and filed it with the Complaint. Dkt. No. 2 ("First IFP Application"). However, no prison official had completed or signed the "Certificate" section on page 2 of that application, which asks an "appropriate official at [the] institution of incarceration" to state the amount of money in the inmate's prison account. Id. Plaintiff also failed to submit an inmate authorization form, as required by Local Rule 5.4(b)(1). Id. Therefore, the Court denied the application as incomplete, administratively closed this case, and gave Plaintiff thirty days to submit an IFP application "certified by an appropriate official at [Plaintiff's] facility" along with "a signed Inmate Authorization Form." Dkt. No. 5 ("October Order") at 2.

On November 13, 2018, Plaintiff submitted his Second IFP Application along with an inmate authorization form, Dkt. No. 7-1 ("Inmate Authorization Form"). His Second IFP Application was again not signed by any prison official. Second IFP Appl. at 2. However, Plaintiff submitted a signed letter stating that he had given the October Order and Second IFP Application to a Lieutenant Hendrickson and Sergeant Kuher at Broome C.F., but that they refused to complete or sign the application. Dkt. No. 7-2 ("Letter"). He states that these officials "informed [Plaintiff] they don't work for [him] and accused [him] of producing a false

¹ If the Court grants the IFP application, the filing fee is paid over time from funds available in the plaintiff's prison account. § 1915(b)(1).

document.” Id.

In view of the obstacles allegedly imposed on Plaintiff by the foregoing correctional officers, the Court is ordering the Broome County Sheriff’s Office, which oversees Broome C.F., to have Plaintiff’s Second IFP Application completed and signed by an appropriate official or explain why it is declining to do so.

IV. CONCLUSION

Accordingly, it is hereby:

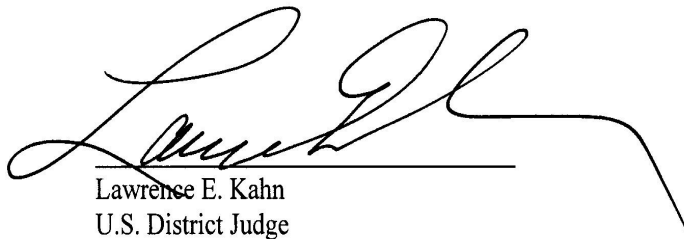
ORDERED, that the thirty-day deadline established in the October Order for filing a completed and signed IFP application is **STAYED**; and it is further

ORDERED, that the Clerk shall serve copies of the docket, the Complaint (Dkt. No. 1), the October Order (Dkt. No. 5), and the Second IFP Application (Dkt. No. 7) and its attachments, including Plaintiff’s Letter (Dkt. No. 7-2), on the Sheriff of Broome County, New York; and it is further

ORDERED, that the Sheriff of Broome County or an authorized official at the Broome County Correctional Facility shall, by December 12, 2018, either: (1) complete, sign, and submit to the Court the “Certificate” portion of Plaintiff’s Second IFP Application (Dkt. No. 7 at 2); or (2) submit an affidavit explaining the reason(s) he or she declines to do so.

IT IS SO ORDERED.

Dated: November 14, 2018
Albany, New York



Lawrence E. Kahn
U.S. District Judge